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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., CONSUMER
PRIVACY USER PROFILE LITIGATION

MDL No. 2843

Case No. 18-md-02843-VC

**RESPONSE OF DEREK LOESER AND
KELLER ROHRBACK L.L.P. TO
PRETRIAL ORDER NO. 3**

This document relates to:

ALL ACTIONS

THE KELLER ROHRBACK TEAM

A team of lawyers representing a proposed or certified class should advance the class's interests both effectively and efficiently. In assembling my anticipated team, I have chosen highly skilled lawyers whose different strengths and experience complement each other, who work cooperatively, and who will be faithful fiduciaries to the class. This approach both avoids duplicative staffing and ensures that we are ready to meet the various challenges inherent in class litigation.

I do not anticipate that all seven members of my anticipated team will work on this case at the same time or spend the same number of hours on it. Precisely because these lawyers have complementary strengths and experience, the amount of time that each lawyer spends on this case will change as litigation proceeds and different challenges arise. In what follows, I will briefly discuss each team member, highlighting the unique skills that each can bring to the team.¹ I have also included a copy of Keller Rohrback's firm resume as well as biographies of each team member as Exhibit A.

Team Members

Lynn Lincoln Sarko is the managing partner of Keller Rohrback and has led its complex litigation group for over a quarter century. He regularly serves as lead counsel in class actions, and in that role has obtained multimillion-dollar settlements or judgments in a wide range of areas that involve corporate misdeeds, including *In re Enron Corp. ERISA Litig.*, No. 01-3913 (S.D. Tex.); *In re WorldCom, Inc. ERISA Litig.*, No. 02-4816 (S.D.N.Y.); and *In re the Exxon Valdez*, No. 89-00095 (D. Alaska). Mr. Sarko also has extensive experience serving in leadership roles in class action cases involving consumer protection laws. For example, he currently serves on the Plaintiffs' Steering Committees in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation* and *In re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability*. Mr. Sarko is likewise experienced in data privacy litigation, including the groundbreaking standing decision in *Krottner v. Starbucks*, 628 F.3d 1139 (9th Cir. 2010), that remains black-letter law in the Ninth Circuit, and more recently as Co-Lead Counsel in *Corona v. Sony Pictures Entertainment, Inc.*, No. 14-9600 (C.D. Cal.), which involved the theft and disclosure of medical, financial, and

¹ To the extent the Court chooses a leadership structure that involves more than one lead counsel, we stand ready to work cooperatively with other firms, as we have done in the past.

1 employment information. Although Mr. Sarko has a wealth of experience in all aspects of class-action
 2 practice, he especially excels in settlement negotiation and dispute resolution. Other law firms often
 3 seek his assistance as settlement counsel in complex cases because of his national reputation as a
 4 skilled, diplomatic negotiator and mediator. Mr. Sarko also has significant bankruptcy and financial-
 5 restructuring expertise, an important strength for this case, where one of the primary Defendants has
 6 filed for bankruptcy. In *In re Enron Corp. ERISA Litigation*, MDL No. 1446 (S.D. Tex.), for example,
 7 he obtained relief from an automatic stay and defeated a motion to subordinate claims, while in *In re*
 8 *WorldCom, Inc. ERISA Litigation*, No. 02-4816 (S.D.N.Y.), he defeated a similar motion and
 9 negotiated a simultaneous resolution of claims in the bankruptcy and district courts. Mr. Sarko holds a
 10 J.D. from the University of Wisconsin Law School, where he was the Editor-in-Chief of the *Wisconsin*
 11 *Law Review*. After graduation, he clerked for Judge Jerome Farris of the Ninth Circuit and worked in
 12 the U.S. Department of Justice before joining Keller Rohrback.

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14 **Cari Campen Laufenberg** maintains a national class-action practice representing consumers
 15 in privacy and data-breach cases. She has been appointed to numerous leadership positions in federal
 16 courts across the country and serves as Co-Lead Counsel for over two million data breach victims in *In*
 17 *Re 21st Century Oncology Customer Data Security Breach Litigation*, MDL No. 2737 (M.D. Fla.).
 18 Like this case, *21st Century Oncology* involved a defendant in bankruptcy, and there Ms. Laufenberg
 19 helped to negotiate a release that enabled the plaintiffs to pursue their claims. Ms. Laufenberg also
 20 serves as an appointed member of several leadership committees involving data privacy, including in
 21 *In Re Experian Data Breach Litigation*, No. 15-1592 (C.D. Cal.) and *In Re Vtech Data Breach*
 22 *Litigation*, No. 15-10889 (N.D. Ill.). She was likewise one of the key attorneys fulfilling Keller
 23 Rohrback's duties as Co-Lead Counsel in *Corona v. Sony Pictures Entertainment, Inc.*, No. 14-9600
 24 (C.D. Cal.), where plaintiffs successfully recovered important injunctive and monetary relief.
 25 Throughout this litigation, I will be drawing on Ms. Laufenberg's deep experience in privacy and data-
 26 breach class actions.

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1 **Gretchen Freeman Cappio** brings 18 years of professional experience in consumer class
 2 actions, particularly in this district, to the team. Ms. Cappio helped bring *Jabbari v. Wells Fargo &*
 3 *Co.*, No. 15-02159-VC (N.D. Cal.), the first class-action lawsuit against Wells Fargo over its creation
 4 of unauthorized accounts. She played a central role in that case, shaping litigation strategy,
 5 participating in the contentious and protracted settlement negotiations, and helping experts to design a
 6 first-of-its-kind model for credit-impact damages, among other responsibilities. She is also experienced
 7 in data privacy litigation, such as in *Krottner v. Starbucks*, No. 09-216 (W.D. Wash.), and *Corona v.*
 8 *Sony Pictures Entertainment, Inc.*, No. 14-9600 (C.D. Cal.), as well as in litigation involving
 9 technological negligence and fraud, including *In re Arizona Theranos, Inc. Litigation*, 16- 2138 (D.
 10 Ariz.), and *West v. ExamSoft Worldwide Inc.*, 14- 22950 (S.D. Fla.). She is especially skilled in
 11 communicating with, and designing notice for, class members—a key role she filled while on the
 12 leadership team representing consumers in *In re Volkswagen “Clean Diesel” Marketing, Sales*
 13 *Practices, & Products Liability Litigation*, MDL No. 2672 (N.D. Cal.). She is a similarly key member
 14 of the plaintiffs’ litigation and settlement teams in another diesel-emissions case in this district, *In re*
 15 *Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, & Products Liability Litigation*, MDL
 16 No. 2777 (N.D. Cal.).

17
 18 **Eric Fierro** oversees Keller Rohrback’s legal technology group, providing electronic discovery
 19 and litigation support on a wide array of class action. A recognized authority in his field, he is a
 20 frequent presenter at forums and conferences on electronic discovery, including the Sedona
 21 Conference. Before joining Keller Rohrback, Mr. Fierro was a managing consultant for Huron
 22 Consulting Group, providing consultative services for complex electronic discovery and document
 23 review matters. His skills and experience will be invaluable here, where electronic discovery will play
 24 such a central role.

25
 26 **Chris Springer** has a background in software development and testing, and maintains a
 27 practice focused on data-privacy and consumer-protection litigation generally. Since joining Keller
 28 Rohrback, he helped obtain a multimillion-dollar recovery in *Corona v. Sony Pictures Entertainment*,

1 *Inc.*, No. 14-9600 (C.D. Cal.), which involved the theft and disclosure of medical, financial, and
 2 employment information. He is also actively involved in *In re 21st Century Oncology Customer Data*
 3 *Security Breach Litigation*, MDL No. 2737 (M.D. Fla.), which involves the unauthorized disclosure of
 4 personal and medical information. Mr. Springer's professional background, combined with his legal
 5 experience, will benefit the class here.

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7 **Benjamin Gould** has extensive experience in appellate litigation and has secured successful
 8 results before the U.S. Courts of Appeals for the First, Second, Sixth, Eighth, and Ninth Circuits, as
 9 well as before numerous state appellate courts. He also brings his skills in legal writing and
 10 argumentation to bear in motion practice before trial courts. In *Jabbari v. Wells Fargo & Co.*, No. 15-
 11 02159-VC (N.D. Cal.), for example, Mr. Gould was primarily responsible for the papers submitted in
 12 support of final settlement approval. He is particularly skilled at producing high-quality work product
 13 in a short amount of time, as when he drafted supplemental briefing responding to the Court's inquiries
 14 at the preliminary-approval stage in *Jabbari*. See Pls.' Suppl. Br. in Resp. to Court Inquiries, *Jabbari*,
 15 No. 15-02159-VC (N.D. Cal. May 17, 2017), ECF No. 145; Order Requesting Further Briefing,
 16 *Jabbari*, No. 15-02159-VC (N.D. Cal. May 16, 2017), ECF No. 141. After graduating from Yale Law
 17 School and before joining Keller Rohrback, Mr. Gould served as a law clerk to both Judge Betty Binns
 18 Fletcher of the Ninth Circuit and Judge Diana E. Murphy of the Eighth Circuit. He also worked for the
 19 ACLU in California, litigating cases at the intersection of civil rights and drug laws. He is a member of
 20 the State Bar of California.

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22 **Rachel Morowitz** is a member of Keller Rohrback's nationally recognized complex litigation
 23 group, whose practice focuses on protecting consumers from corporate negligence and malfeasance.
 24 She has experience in data breach notification and regulatory compliance, and has worked on data
 25 privacy matters including *In re Equifax, Inc. Customer Data Security Breach Litigation*, MDL No.
 26 2800 (N.D. Ga.). Before joining Keller Rohrback, Ms. Morowitz specialized in employee benefits law
 27 and worked on amicus briefs submitted to the Fifth Circuit, Ninth Circuit, and U.S. Supreme Court.
 28 She also interned at the U.S. Department of Labor and U.S. Supreme Court. Ms. Morowitz is a zealous

1 advocate for workers and consumers, and her professional background and legal experience will
2 benefit the class here.

3 **Northern District of California Leadership Experience**

4 Derek Loeser has served as lead counsel in *Jabbari v. Wells Fargo & Co.*, No. 15-02159-VC
5 (N.D. Cal.) (Chhabria, J.).

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7 DATED this 17th day of July, 2018.

8 KELLER ROHRBACK L.L.P.

9 By /s/ Derek W. Loeser

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